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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,957	08/20/2001	Jeff Jacob Brauer	Q92694	7951
23373	7590	02/24/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			VAN BRAMER, JOHN W	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/933,957	<b>Applicant(s)</b> BRAUER, JEFF JACOB	
	<b>Examiner</b> John Van Bramer	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 21-25 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on January 31, 2006 under 37 CFR 1.114 cancels claims 1 – 20. The amendment is therefor sufficient to overcome the 35 U.S.C. 102(e) rejections of claims 1 and 3-20 as being anticipated by Forward (U.S. Patent Number: 6,578,011) as well as the 35 U.S.C. 103(a) rejection of claim 2 as unpatentable over Forward (U.S. Patent Number: 6,578,011) . Claims 21 – 25 have been added. The specification has been changed to include the amended title “METHOD FOR OFFERING REBATES IN REAL ESTATE RENTAL TRANSACTIONS”. The currently pending claims considered below are Claims 21 – 25.

### ***Claim Objections***

2. The amendment filed on January 31, 2006 corrected the minor deficiencies in Claim 13 by canceling the claim. Therefore, the Examiner hereby withdraws that objection.

### ***Claim Rejections - 35 USC § 112***

3. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 is dependent on claim 22, which recites “a discount code” and “a selected one of the apartments” which provides

metes and bounds that any dependent claim must adhere too. The selection of "a second discount code associated with another apartment" as in dependent claim 23 would fall outside the bounds establish in claim 22.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forward (U.S. Patent Number: 6,578,011) in view of Good et al. (U.S. Patent Number: 6,314,404).

Claim 21: Forward discloses a real estate method, comprising:

- a. Creating, at a real estate host computer, a client profile relating to a user. (Col 7, lines 45 – 50 and Col 8, lines 18 – 23)
- b. Receiving, from the user, property search criteria. (Col 5, lines 3 – 19)
- c. Retrieving descriptions related to real estate matching the property search criteria, including a brief narrative, and one or more photographs for display to the user. (Col 5, lines 3 – 19)
- d. Receiving confirmation from the user that the user entered a contract for one the real estate properties. (Col 6, lines 4 – 52)

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- e. Collecting, from a real estate seller, a transaction fee. (Col 6, lines 4 – 52)
- f. Paying the user a rebate amount that has a predetermined, fixed value. (Col 6, lines 4 – 52)

While Forward does not specifically state that the invention is for rental real estate, the analogous teachings of Good et al. describe a similar real estate transaction method that is used in rental transaction. The method disclosed in Good et al contain a broker computer system which accepts rental property search criteria from a customer, returns rental real estate descriptions, receives confirmation that a user entered a lease agreement, collects a fee from the lessor, and provides the customer with an inducement (Good et al: Col 3, line 44 through Col 4, line 20 and Col 5, line 63 through Col 6, line 26). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to include rental properties in the type of real estate transactions method disclosed by Forward. One would have been motivated to include rental properties in order to increase the volume of properties from which a customer can select, as well as increase the potential brokers revenue generating opportunities. Another motivation for including rental properties in the invention would be that such an inclusion would merely be an addition to the disclosed intended use and require little to no modification to the system disclosed.

Claim 22: Forward and Good et al. disclose the real estate rental method as set forth in claim 21, further comprising assigning the user a discount code (the

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incentive information inherently contains a specific code in order for the system to match the correct incentive with the proper customer), associated with a selected one of the apartments, wherein the user uses the discount code to obtain the rebate. (Forward: Col 5, lines 20 – 40 and Col 6, lines 4 – 29)

Claim 23: Forward and Good et al. disclose the real estate rental method as set forth in claim 22, further comprising assigning the user a second discount code associated with another apartment, when the user rents an apartment from the lessor other than the selected one of the apartment (Forward: Col 5, lines 20 – 40 and Col 6, lines 4 – 29). When a customer elects not to rent the selected property they can always repeat the process and obtain a second discount code for a rental property owned by the original lessor.

Claim 24: Forward and Good et al. disclose the real estate rental method as set forth in claim 21, further comprising collecting, from the lessor of the apartment, a hosting fee for hosting a website listing of the apartment. (Forward: Col 6, lines 4 – 29)

Claim 25: Forward and Good et al. disclose the real estate rental method as set forth in claim 21, further comprising collecting, from the user, qualifying financial information. (The ability to share information gathered by the item locator system, such as credit rating, with incentive providers is disclosed)(Forward: Col 6, line 53

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through Col. 7, line 26). While Forward is silent with regard to allowing the lessor to view the qualifying information of the user. It would have been obvious to one of ordinary skill in the art at the time of the invention to share the information gathered about potential tenants with lessors as well as incentive providers. One would have been motivated to do this in order to ensure that the lessor is able to make a decision quickly with regard to renting to the customer. This would result in more timely payments from the lessor to the broker system.

### ***Response to Arguments***

6. Applicant's arguments with respect to the newly added claims 21 - 25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

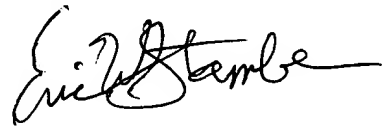
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 9am - 5pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jvb  
*[Handwritten initials]*



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